Journal of the Senate

SECOND REGULAR SESSION

FORTY-FIFTH DAY—WEDNESDAY, MARCH 29, 2006

The Senate met pursuant to adjournment.

Senator Crowell in the Chair.

Reverend Carl Gauck offered the following prayer:

"If we really want to pray, we have to give time to learning its lessons." (Mother Mary Clare)

Almighty God, we sometimes hurry over words, state platitudes, and believe our prayers are finished. But, when we pray, help us take the time to learn the lessons that come from praying by discovering ourselves as we truly are before You and grow towards maturity that deepens our relationship with You so that what we do and say reflects Your will for our lives. Amen.

The Pledge of Allegiance to the Flag was recited.

A quorum being established, the Senate proceeded with its business.

The Journal of the previous day was read and approved.

Senator Shields announced that photographers from KRCG-TV were given permission to take pictures in the Chamber today.

The following Senators were present during the day's proceedings:

Present—Senators

Alter Barnitz Bartle Bray
Callahan Cauthorn Champion Clemens

Coleman	Crowell	Days	Dougherty
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Vogel	Wheeler
Wilson—33			

Absent—Senators—None

Absent with leave—Senators—None

Vacancies-1

RESOLUTIONS

Senator Stouffer offered Senate Resolution No. 2538, regarding Charles K. Light, II, Kearney, which was adopted.

Senator Wilson offered Senate Resolution No. 2539, regarding the Lincoln University Women's Indoor Track and Field Team, which was adopted.

Senator Goodman offered Senate Resolution No. 2540, regarding the Mt. Vernon High School Boys Basketball Team, which was adopted.

Senator Cauthorn offered Senate Resolution No. 2541, regarding Kathleen J. "Kathy" Smith, Louisiana, which was adopted.

Senator Cauthorn offered Senate Resolution

No. 2542, regarding Jason Gette, Middletown, which was adopted.

Senator Cauthorn offered Senate Resolution No. 2543, regarding John Hampton, Hannibal, which was adopted.

Senator Cauthorn offered Senate Resolution No. 2544, regarding Joyce Graver, Bowling Green, which was adopted.

HOUSE BILLS ON SECOND READING

The following Bills were read the 2nd time and referred to the Committees indicated:

HCS for **HB 1432**—Financial and Governmental Organizations and Elections.

HB 1437—Aging, Families, Mental and Public Health.

HB 1601—Aging, Families, Mental and Public Health.

HB 998—Economic Development, Tourism and Local Government.

HB 1687—Aging, Families, Mental and Public Health.

HB 1722—Agriculture, Conservation, Parks and Natural Resources.

HB 1732—Education.

MESSAGES FROM THE HOUSE

The following messages were received from the House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 1180**, entitled:

An Act to repeal section 167.231, RSMo, and to enact in lieu thereof one new section relating to student transportation.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also,

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 1339**, entitled:

An Act to repeal sections 339.010, 339.040, and 339.100, RSMo, and to enact in lieu thereof three new sections relating to real estate brokers.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

Also.

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HB 1392**, entitled:

An Act to repeal section 332.311, RSMo, and to enact in lieu thereof one new section relating to dental hygienist.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

THIRD READING OF SENATE BILLS

SB 822, introduced by Senator Gross, entitled:

An Act to repeal sections 198.439, 208.437, 208.480, and 338.550, RSMo, and to enact in lieu thereof four new sections relating to the health care provider tax, with an emergency clause.

Was taken up.

On motion of Senator Gross, **SB 822** was read the 3rd time and passed by the following vote:

YEAS—Senators

Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dougherty
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer

Nodler	Purgason	Ridgeway	Scott	
Shields	Stouffer	Vogel	Wheeler	
Wilson—33				
NAYS—Senators—None				
Absent—Senators—None				
Absent with leave—None				
Vacanc	ies—1			

The President declared the bill passed.

The emergency clause was adopted by the following vote:

YEAS—S			
Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Champion	Clemens
Coleman	Crowell	Days	Dougherty
Engler	Gibbons	Goodman	Graham
Green	Griesheimer	Gross	Kennedy
Klindt	Koster	Loudon	Mayer
Nodler	Purgason	Ridgeway	Scott
Shields	Stouffer	Vogel	Wheeler
Wilson—33			

NAYS—Senators—None

Absent—Senators—None

Absent with leave—Senators—None

Vacancies—1

On motion of Senator Gross, title to the bill was agreed to.

Senator Gross moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

SB 1197, introduced by Senators Wheeler and Champion, entitled:

An Act to repeal section 431.068, RSMo, and to enact in lieu thereof one new section relating to

persons donating blood.

Was called from the Consent Calendar and taken up by Senator Wheeler.

On motion of Senator Wheeler, **SB 1197** was read the 3rd time and passed by the following vote:

YEAS—Senators			
Alter	Barnitz	Bartle	Bray
Callahan	Cauthorn	Clemens	Coleman
Crowell	Days	Dougherty	Engler
Gibbons	Goodman	Graham	Green
Griesheimer	Gross	Kennedy	Klindt
Koster	Loudon	Mayer	Nodler
Purgason	Ridgeway	Scott	Shields
Stouffer	Vogel	Wheeler	Wilson—32
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NAYS—Senators—None

Absent—Senator Champion—1

Absent with leave—Senators—None

Vacancies—1

The President declared the bill passed.

On motion of Senator Wheeler, title to the bill was agreed to.

Senator Wheeler moved that the vote by which the bill passed be reconsidered.

Senator Shields moved that motion lay on the table, which motion prevailed.

SENATE BILLS FOR PERFECTION

Senator Ridgeway moved that **SB 778** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Griesheimer offered SA 1:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 778, Page 3, Section 306.030, Line 83, by striking the word "\$55.00" and inserting in lieu thereof the following:

"\$35.00".

Senator Griesheimer moved that the above amendment be adopted.

Senator Callahan offered **SSA 1** for **SA 1**: SENATE SUBSTITUTE AMENDMENT NO. 1 FOR SENATE AMENDMENT NO. 1

Amend Senate Bill No. 778, Page 3, Section 306.030, Lines 81 to 86, by striking all of the opening and closing brackets and all bolded language appearing on said lines; and

further amend said bill, section 306.185, page 4, line 3, by inserting immediately after the word "306.030" the following: "and sections 1 to 3"; and

further amend said bill, section, and page, line 21 by inserting after all of said line the following:

"Section 1. 1. Whenever the creation of a water safety district is desired, not less than fifty registered voters from each county partially or totally within the proposed district may file a petition requesting the creation of a district. The petition shall be filed in the circuit court of any county partially or totally within the proposed district.

- 2. The petition shall set forth:
- (1) The name, voting residence and county of residence of each individual petitioner;
- (2) The name and address of each respondent;
- (3) A specific description of the proposed district boundaries including a map illustrating such boundaries;
- (4) A general description of the purpose for which the tax shall be levied;
 - (5) The name of the proposed district;
- (6) The number of members of the board of directors of the proposed district, which shall be not less than five or more than fifteen;
 - (7) A statement that the terms of office of

initial board members shall be staggered in approximately equal numbers to expire in one, two or three years;

- (8) A request that the question be submitted to the qualified voters within the limits of the proposed district whether they will establish a water safety district to fund the Missouri State Water Patrol Fund created in section 306.185, RSMo.:
- (9) A request that the funding proposal be submitted to the qualified voters residing within the limits of the proposed district; and
- (10) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable.

Section 2. 1. If the circuit court certifies the petition for voter approval, it shall call an election.

2. At such election for voter approval of the qualified voters, the questions shall be submitted in substantially the following form:

Shall there be organized in (here specifically describe the proposed district boundaries), within the state of Missouri, a water safety district, to be known as the "....................... Water Safety District" for the purpose of funding the Missouri State Water Patrol Fund for activities conducted by the state water patrol within the district and have the power to fund such activities upon separate voter approval by the imposition of an additional real property tax?

3. The results of the election shall be entered upon the records of the circuit court of the county in which the petition was filed. Also, a certified copy thereof shall be filed with the county clerk of each county in which a portion of the proposed district lies, who shall cause the same to be spread upon the records of the county commission. If the results show that a majority of the votes cast by the qualified voters

were in favor of organizing the water safety district, the circuit court having jurisdiction of the matter shall declare the district organized and certify the funding method approved by the qualified voters. If the results show that less than a majority of the votes cast by the qualified voters were in favor of the organization of the district, the circuit court shall declare that the question has failed to pass, and the same question shall not be again submitted for voter approval for two years.

Section 3. 1. Any district created under sections 1 and 2, may levy for water safety purposes in addition to the limits prescribed in article X of the constitution a rate of taxation on all real property subject to its taxing powers in an amount as now or hereafter prescribed by law; and may, upon compliance with the provisions of subsection 2 of this section, levy an additional tax, annually, on all taxable property in such district. Such district may submit the question to the voters.

2. The question shall be submitted in substantially the following form:

Shall the (name of water safety district) be authorized to levy a cent tax for the purposes of funding the Missouri State Water Patrol Fund for activities conducted by the state water patrol within the district?

3. If a majority of all of the votes cast on the question is for the proposed grant of authority to levy tax, the district may thereafter annually levy a tax within the limitation of the authority granted, the tax to be collected in like manner with other taxes for political subdivisions."; and

Further amend the title and enacting clause accordingly.

Senator Callahan moved that the above amendment be adopted.

Senator Shields raised the point of order that **SSA 1** for **SA 1** is out of order in that it is not a true substitute, and further, that it goes beyond the scope of the bill.

The point of order was referred to the

President Pro Tem who ruled it well taken.

SA 1 was again taken up.

Senator Bartle assumed the Chair.

Senator Scott assumed the Chair.

Senator Shields assumed the Chair.

Senator Koster assumed the Chair.

Senator Griesheimer moved that the above amendment be adopted, which motion failed.

Senator Gross offered **SA 2**, which was read:

SENATE AMENDMENT NO. 2

Amend Senate Bill No. 778, Page 4, Section 306.185, Line 8, by inserting an opening bracket "[" after the word "expense" as it appears the second time and further by inserting a closing bracket "]" on line 10, page 4 after the word "patrol".

Senator Gross moved that the above amendment be adopted.

Senator Mayer assumed the Chair.

Senator Green offered **SSA 1** for **SA 2**, which was read:

SENATE SUBSTITUTE AMENDMENT NO. 1 FOR SENATE AMENDMENT NO. 2

Amend Senate Bill No. 778, Page 4, Section 306.030, Lines 91-96, by striking all of said lines; and

further amend section 306.185, page 4, lines 1-21 by striking all of said section from the bill; and

Further amend the title and enacting clause accordingly.

Senator Green moved that the above substitute amendment be adopted.

Senator Crowell assumed the Chair.

Senator Ridgeway requested a roll call vote be taken on the adoption of **SSA 1** for **SA 2**. She was joined in her request by Senators Clemens, Coleman, Green and Shields.

SSA 1 for SA 2 failed of adoption by the

following vote:

YEAS—Senators			
Bray	Callahan	Coleman	Days
Dougherty	Graham	Green	Gross
Kennedy	Klindt	Mayer	Wheeler
Wilson—13			
NAYS—S	enators		
Alter	Barnitz	Bartle	Cauthorn
Clemens	Crowell	Engler	Gibbons
Goodman	Loudon	Nodler	Purgason
Ridgeway	Scott	Shields	Stouffer
Vogel—17			
Absent—S	Senators		
Champion	Griesheimer	Koster—3	
Absent with leave—Senators—None			
Vacancies-	—1		

SA 2 was again taken up.

Senator Gross moved that the above amendment be adopted, which motion prevailed.

Senator Gross offered **SA 3**:

SENATE AMENDMENT NO. 3

Amend Senate Bill No. 778, Page 4, Section 306.185, Line 21, by inserting immediately after said line the following:

"5. If in the immediate previous fiscal year, the state's net general revenue did not increase by two percent or more, the state treasurer shall deposit moneys, except for gifts, donations, or bequests, received under this section beginning January first of the current fiscal year into the state general revenue fund. Otherwise, the state treasurer shall deposit such moneys in accordance with the provisions of this section."

Senator Gross moved that the above amendment be adopted, which motion prevailed.

Senator Ridgeway moved that SB 778, as amended, be declared perfected and ordered

printed.

Senator Green requested a roll call vote be taken on the perfection of **SB 778**, as amended. He was joined in his request by Senators Ridgeway, Wilson, Bray and Callahan.

SB 778, as amended, was declared perfected and ordered printed by the following vote:

YEAS—Senators				
Alter	Barnitz	Bray	Cauthorn	
Clemens	Crowell	Days	Dougherty	
Engler	Gibbons	Goodman	Nodler	
Ridgeway	Scott	Shields	Stouffer	
Vogel	Wheeler—18			
NAYS—Senators				
Bartle	Callahan	Champion	Coleman	
Graham	Green	Griesheimer	Gross	
Kennedy	Klindt	Loudon	Mayer	
Wilson—13				

Absent—Senators

Koster Purgason—2

Absent with leave—Senators—None

Vacancies-1

On motion of Senator Shields, the Senate recessed until 3:00 p.m.

RECESS

The time of recess having expired, the Senate was called to order by Senator Koster.

RESOLUTIONS

Senator Scott offered Senate Resolution No. 2545, regarding the Sixty-fifth Wedding Anniversary of Mr. and Mrs. Kenneth Shinn, Osceola, which was adopted.

Senator Scott offered Senate Resolution No. 2546, regarding Dr. Tammy Condren, Polk County, which was adopted.

MESSAGES FROM THE HOUSE

The following message was received from the

House of Representatives through its Chief Clerk:

Mr. President: I am instructed by the House of Representatives to inform the Senate that the House has taken up and passed **HCS** for **HB 1559**, entitled:

An Act to repeal section 192.081, RSMo, and to enact in lieu thereof one new section relating to donation of food.

In which the concurrence of the Senate is respectfully requested.

Read 1st time.

SENATE BILLS FOR PERFECTION

Senator Cauthorn moved that **SB 637**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for SB 637, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 637

An Act to repeal sections 334.010 and 334.260, RSMo, and to enact in lieu thereof seven new sections relating to the practice of midwifery, with penalty provisions.

Was taken up.

Senator Cauthorn moved that **SCS** for **SB 637** be adopted.

Senator Cauthorn offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Committee Substitute for Senate Bill No. 637, Page 3, Section 324.1230, Lines 6-7, by striking the following: ", not to exceed one hundred dollars per year of licensure"; and further amend line 10 by striking the word "three" and inserting in lieu thereof the following: "two".

Senator Cauthorn moved that the above amendment be adopted, which motion prevailed.

Senator Graham offered **SA 2**:

SENATE AMENDMENT NO. 2

Amend Senate Committee Substitute for Senate Bill No. 637, Section 324.1240, Page 8, Lines 75 to 83, by deleting all of said lines and inserting in lieu thereof the following:

"7. No person other than the licensed directentry midwife who provided care to the client shall be liable for the direct-entry midwife's negligent or willful and wanton acts or omissions. No licensed physician, certified nurse midwife, licensed nurse, hospital, emergency medical technicians licensed under chapter 190 RSMo, or agents thereof, shall be liable for any acts of any direct-entry midwife, except for their own subsequent and independent negligent or willful and wanton acts or omissions."

Senator Graham moved that the above amendment be adopted, which motion prevailed.

Senator Cauthorn offered **SA 3**, which was read:

SENATE AMENDMENT NO. 3

Amend Senate Committee Substitute for Senate Bill No. 637, Page 3, Section 324.1230, Line 13, by striking the word "three" and inserting in lieu thereof the following: "two".

Senator Cauthorn moved that the above amendment be adopted.

On motion of Senator Cauthorn, **SB 637**, with **SCS** and **SA 3** (pending), was placed on the Informal Calendar.

Senator Stouffer moved that **SB 938** be called from the Informal Calendar and taken up for perfection, which motion prevailed.

Senator Cauthorn offered **SA 1**:

SENATE AMENDMENT NO. 1

Amend Senate Bill No. 938, Page 9, Section 227.648, Line 8, by striking "8.282" and inserting in lieu thereof the following: "8.285".

Senator Cauthorn moved that the above

amendment be adopted, which motion prevailed.

SB 938, as amended, was declared perfected and ordered printed.

At the request of Senator Engler, **SB 905** and **SB 910**, with **SCS**, were placed on the Informal Calendar.

At the request of Senator Cauthorn, **SB 1104**, with **SCS**, was placed on the Informal Calendar.

SB 1066 was placed on the Informal Calendar.

At the request of Senator Nodler, **SB 696** was placed on the Informal Calendar.

Senator Mayer moved that **SB 1002**, with **SCS**, be taken up for perfection, which motion prevailed.

SCS for SB 1002, entitled:

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1002

An Act to repeal sections 644.584, 644.585, and 644.586, RSMo, and to enact in lieu thereof four new sections relating to drainage districts.

Was taken up.

Senator Mayer moved that **SCS** for **SB 1002** be adopted, which motion failed.

SB 1002 was again taken up.

On motion of Senator Mayer, **SB 1002**, was declared perfected and ordered printed.

REPORTS OF STANDING COMMITTEES

Senator Shields, Chairman of the Committee on Rules, Joint Rules, Resolutions and Ethics, submitted the following reports:

Mr. President: Your Committee on Rules, Joint Rules, Resolutions and Ethics, to which were referred **SB 778** and **SB 938**, begs leave to report that it has examined the same and finds that the bills have been truly perfected and that the printed copies furnished the Senators are correct.

COMMUNICATIONS

Senator Shields submitted the following:

March 29, 2006

Ms. Terry Spieler

Secretary of the Senate

State Capitol, Office 325

Jefferson City, MO 65101

Dear Ms. Spieler:

Please accept this letter as my request to be removed from all caucuses that I am currently a member. These caucuses include those approved by the Senate Rules, Joint Rules, Resolutions and Ethics Committee and the House Committee on Ethics.

Thank you for your attention to this matter and please contact me if you have any further questions.

Sincerely,

/s/ Charlie

Charles W. Shields

INTRODUCTIONS OF GUESTS

Senator Scott introduced to the Senate, Carolyn Kelsay and Nancy Morrow, Clinton.

Senator Engler introduced to the Senate, Ron LaPlant, Farmington.

Senator Cauthorn introduced to the Senate, Emmy Crowdis, Mexico.

Senator Ridgeway introduced to the Senate, members and staff of the Missouri Water Patrol.

Senator Goodman introduced to the Senate, Coach Skip Brock and members of the Mt. Vernon High School Boys Basketball Team; and representatives of the Mt. Vernon Teenage Republicans from Mt. Vernon High School.

Senator Goodman introduced to the Senate, Principal Jana Wilson, Roger Ball and students from Robinson Jr. High School, Aurora.

Senator Shields introduced to the Senate, Ross

Balano and Kevin Torres, Phillip Balano, Alex Gavin and Brianna Shumate, eighth grade students from St. Therese Elementary School, Parkville; and Kevin, Phillip, Alex and Brianna were made honorary pages.

Senator Wilson introduced to the Senate, Coach Victor Thomas and Nandelle Cameron, Kelly Marshall, Jamika Martell, Nikita McCree, Nessa Paul, Jody-Ann Powell, Davita Prendergast, Karen Robinson, Kerry-Ann Robinson, Meleshia Spencer, Carla Thomas and Janie Thomas, members of the Lincoln University Lady Blue Tigers Indoor Track and Field Team, NCAA Division II Indoor Track and Field Champions.

Senator Kennedy introduced to the Senate, Frank J. Ziegler, St. Louis.

Senator Stouffer introduced to the Senate, Jerry and Mary Armstrong, Mountain Grove.

Senator Kennedy introduced to the Senate, Little Miss Missouri, Emily Bray, her mother, Michelle, her brother, Dalton and Reiko McDaniel, St. Louis.

Senator Gibbons introduced to the Senate, Dr. C. Mobin Kahn, M.D., his wife, Kanwal and their children, Imad and Haris, St. Louis; and Imad and Haris were made honorary pages.

Senator Cauthorn introduced to the Senate, Kelly Nelson, Novelty.

Senator Loudon introduced to the Senate, Ali and Chandler Dalton, Town and Country; and Ali and Chandler were made honorary pages.

On motion of Senator Shields, the Senate adjourned under the rules.

SENATE CALENDAR

FORTY-SIXTH DAY-THURSDAY, MARCH 30, 2006

FORMAL CALENDAR

SECOND READING OF SENATE BILLS

SJR 43-Crowell, et al

HOUSE BILLS ON SECOND READING

HCS for HB 1180 HB 1392-Behnen HCS for HB 1339 HCS for HB 1559

THIRD READING OF SENATE BILLS

SB 778-Ridgeway, et al SB 938-Stouffer

SENATE BILLS FOR PERFECTION

SB 882-Engler, with SCS
 SB 1072-Loudon
 SB 31-Ridgeway and Shields
 SB 642-Scott
 SB 1049-Shields, with SCS
 SB 841-Ridgeway, et al, with SCS
 SB 1041-Gibbons, with SCS
 SB 1058-Loudon
 SB 1081-Clemens, with SCS
 SB 969-Stouffer, with SCS

INFORMAL CALENDAR

SENATE BILLS FOR PERFECTION

SB 566-Dougherty, et al, with SCS SB 820-Koster, with SCS SB 825-Koster, et al, with SCS SB 589-Bartle SB 596-Days SB 832-Griesheimer, with SCS SBs 613, 1030 & 899-Engler and Crowell, SRB 848-Bartle, with SCS with SCS SB 849-Mayer, et al, with SS, SA 6 & SA 1 SB 617-Koster, with SCS to SA 6 (pending) SB 635-Cauthorn SB 892-Scott, with SCS SB 894-Nodler, et al, with SCS SB 637-Cauthorn, et al, with SCS & SA 3 (pending) SB 901-Shields SBs 905 & 910-Engler, with SCS SB 643-Scott SB 646-Griesheimer, with SCS SB 953-Engler, et al, with SCS SB 976-Gibbons, with SCS SBs 665 & 757-Engler, with SCS SBs 1014 & 730-Scott and Gibbons, with SB 689-Scott SCS, SS for SCS, SA 1 & SSA 3 for SB 690-Champion, with SCS SB 696-Nodler and Crowell SA 1 (pending) SB 718-Crowell and Mayer, with SCS SBs 1031 & 846-Klindt, with SCS SB 780-Klindt SB 1037-Mayer SB 798-Nodler, with SCS SB 1064-Stouffer, with SCS SB 816-Griesheimer and Coleman, with SCS SB 1066-Klindt SB 1104-Cauthorn and Klindt, with SCS & SS for SCS (pending) SB 817-Scott, et al SJR 26-Ridgeway and Graham

CONSENT CALENDAR

Senate Bills

Reported 2/9

Reported 3/9

SB 1080-Coleman

SB 1003-Mayer, with SCS#2

RESOLUTIONS

Reported from Committee

SCR 24-Scott, with SCS SCR 28-Days

SCR 29-Graham

MISCELLANEOUS

REMONSTRANCE 1-Gross

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